Calendar No. 5

99TH CONGRESS
1st Session

SENATE

REPORT
99-3

APPORTIONING INTERSTATE HIGHWAY FUNDS

FEBRUARY 5 (legislative day, JANUARY 21), 1985.—Ordered to be printed

Mr. SYMMS, from the Committee on Environment and Public Works, submitted the following

REPORT

[To accompany S.J. Res. 44]

The Committee on Environment and Public Works reports an original joint resolution (S.J. Res. 44) to approve the interstate and interstate substitute cost estimates, to amend title 23 of the United States Code, and for other purposes, and recommends that the bill do pass.

GENERAL STATEMENT

The Surface Transportation Assistance Act of 1982 (STAA of 1982) provided authorizations for the Interstate construction program through fiscal year 1990 and the other Federal-aid highway categories through fiscal year 1986. A policy was continued in the STAA of 1982 which directs that before Interstate construction funds can be apportioned to the States, Congress must approve an Interstate Cost Estimate (ICE). In addition, the STAA of 1982 included a new provision which required Congress to approve an Interstate Substitute Cost Estimate (ISCE) before Interstate substitute funds can be released to the States.

In the past, Congress has generally approved an ICE for two years. States are required to update this Interstate cost completion information and submit it to the Department of Transportation every two years. The STAA of 1982 also required the States to submit information to the Secretary regarding Interstate substitute projects. In the past, approval of the ICE has been a fairly routine matter. However, during the past two years Congress has had difficulty in reaching agreement on an ICE and ISCE approval.

The Committee reported H.R. 3103 on September 29, 1983, which approved a two-year ICE and ISCE. This was subsequently passed

51-010 O

S323-2.

by the Senate. Because of other controversial issues, however, Congress was unable to complete action on H.R. 3103 and approve the ICE and ISCE. A compromise was finally reached and legislation was passed and signed into law on March 9, 1984, as P.L. 98–229, which released slightly more than one-half of the Interstate construction, Interstate substitute and minimum allocation funds available in fiscal year 1984.

The Committee began a series of hearings on the Federal-aid highway program on February 1, 1984. S. 2527, which contained an 18-month ICE/ISCE approval, was introduced on April 3, 1984, and reported by the Committee in June. S. 2527 was considered by the full Senate in October 1984. Because of several filibusters during floor consideration, S. 2527 was hopelessly mired in parliamentary difficulties. The Committee then reported an original bill, S. 3024 which was very similar to S. 2527. S. 3024 was passed by the Senate on October 4, 1984. The conference committee was unable to reach agreement and, therefore, no legislation was enacted and no further Interstate construction, Interstate substitute, or minimum allocation funds were released.

The Committee continues to be very concerned about the delay in releasing these funds to the States. Over $2.6 billion was made available in March 1984. However, these funds should have been available more than 5 months before that—on October 1, 1983. An additional $2.1 billion that should also have been available October 1, 1983 has not yet been released and still another $5 billion should have been released on October 1, 1984. The purpose of multi-year authorizations for the Federal-aid highway program is to assure stable, reliable long-term funding so States can do the planning necessary for large, costly projects. The inability of Congress to release these funds at the time when States have been assured they would be available, has had a detrimental effect on the highway program.

In order to emphasize the urgency of passing ICE legislation, the Chairman of the Committee and the Chairman of the Subcommittee on Transportation together with several other Senators introduced highway legislation, S. 178 and S.J. Res. 8, on January 3, the first day of the first session of the 99th Congress.

In order to preclude delays in releasing highway funds in the future, S. 178 and S.J. Res. 8 both contained provisions which direct the Secretary of Transportation to release the Interstate construction and substitute funds administratively if Congress has not acted by October 1 to approve an ICE and ISCE. The administrative release provision was also contained in highway legislation introduced and passed by the Senate last year. The process would continue to work much as it does now. The States would still be required to submit an updated ICE and ISCE every two years to the Secretary of Transportation. The Secretary would submit them to Congress on January 1. Congress would then have from January 1 to October 1 to review the ICE and ISCE and make any changes. If Congress has not acted by October 1, the Secretary would administratively release these funds to the States. Congress, of course, would not be precluded from acting after October 1 if it so desired. The Committee believes this process will preserve Congress' over-

sight responsibilities and at the same time assure the successful and timely completion of the Interstate system.

During Committee consideration of S. 178 and S.J. Res. 8, the Federal-aid highway program budget was discussed. The Committee recognizes that reducing the Federal budget deficit is Congress' highest domestic priority this year. Failure to bring the deficit under control will result in rising interest rates, a further decline in investment, higher unemployment and a decline in U.S. trade abroad.

The argument is often put forward that the highway program is a dedicated user fee program financed from a trust fund that has a $10 billion balance and should, therefore, be immune from any efforts to control Federal spending. The Highway Trust Fund is, however, part of the unified budget and the level of highway spending does have an impact on the Federal budget. Currently highway spending exceeds revenues coming into the Highway Trust Fund on a yearly basis. The levels of spending authorized by the STAA of 1982 cannot be maintained far beyond fiscal year 1986 without further tax increases or significant reductions to the program in the near future. This will occur even earlier if new spending is authorized this year beyond the authorizations in the STAA of 1982.

The Committee came to the conclusion that if the effort to reduce the Federal deficit was to be successful, every Federal spending program must be reviewed and bear its share of the reductions necessary to assure a healthy economy. The Committee also concluded that action to control spending in the highway program must be taken now and not delayed until other Committees have acted or the entire Congress has agreed on what actions should be taken to reduce the deficit. The Committee believes it is important to show how serious the commitment is to reducing the deficit. Because the Committee had highway legislation before it for consideration, it believes this was the appropriate time to also review the spending levels of the program.

The Committee approved an amendment which would set the obligation limitation for fiscal year 1986 at $12.750 billion. This is a $1.7 billion reduction below the fiscal year 1986 level of $14.450 billion set by the STAA of 1982. It is a $500 million reduction below the fiscal year 1985 obligation limitation. This reduction will mean the States will have to determine which projects have the highest priority and delay some projects which have a lower priority.

The decision was made to reduce spending in the program by reducing the obligation limitation rather than specific categories in order to permit the States as much flexibility as possible in determining which projects could best be delayed with the least hardship to the total transportation program in each State. The Committee recognizes that a reduction in the highway program will possibly delay needed highway construction and repair projects in this country. However, the highway program will also benefit from an economy where budget deficits are under control. If an ICE and ISCE are not approved in the near future, the highway program will be affected by more than deficit reductions. Unless the ICE and ISCE are approved quickly, States will not have sufficient apportionments and allocations to obligate the $13.250 billion available in fiscal year 1985.

The Committee reiterates its strong belief that approving an ICE and ISCE is long overdue. There will be an opportunity to consider other highway issues in the near future when the entire Federal-aid highway program must be reauthorized in fiscal year 1986.

Major Provisions

INTERSTATE COST ESTIMATE AND INTERSTATE SUBSTITUTE COST ESTIMATE APPROVAL

Highway apportionments are made each year on October 1, but in the case of Interstate construction funds, Congress must first approve the Interstate Cost Estimate (ICE) before the Secretary of Transportation can release those funds to the States. In the past, the ICE was routinely approved, however, since the beginning of fiscal year 1984, Congressional approval of the ICE has become increasingly difficult.

To date Congress has been able to pass only a six-month ICE approval, and even that small step did not occur until five months into fiscal year 1984. The Committee has been required, therefore, to do further legislation to approve another ICE for the remaining 18 months, i.e. the remainder of fiscal year 1985 and all of fiscal year 1986. Congressional approval of the 1983 ICE will result in the release of approximately $5.3 billion in Interstate construction funds. In addition, the 1985 ICE for fiscal years 1987 and 1988 has now been submitted by the Secretary and must be acted on by October 1, 1985.

The Committee recognizes an increasingly urgent need for release of the backlogged funds and for the timely release of funding that will become available for apportionment as of this October 1. States must have long-range funding security to sensibly plan large Interstate projects. The Senate has repeatedly recognized that by passing long-term ICE legislation in 1983 and again in 1984.

Over the past several years, the Committee has heard testimony from a broad range of highway interests about the vital need for additional investments in our transportation infrastructure and about the equally critical need for timely apportionment of available funding. With passage of the Surface Transportation Assistance Act of 1982, funding for the Federal-aid highway program increased by more than 50 percent, beginning with fiscal year 1983. Highway users, in turn, have been paying higher taxes to finance that increased spending.

The Committee reaffirms its commitment to addressing the pressing rehabilitation and construction needs on our highway system and assuring that user fees paid by the motoring public are put to work in meeting those needs.

The legislation additionally provides for approval of the Interstate Substitute Cost Estimate (ISCE) for the remaining six months of fiscal year 1984 and for the entire fiscal years of 1985 and 1986. The 18 months of ISCE funding totals approximately $780 million. As with the ICE, the Committee is very concerned about the continued delay in approving the ISCE. The current disruption in the flow of ISCE funding should be ended, and in the future States

should receive already-authorized substitute highway and transit funding in a timely, reliable manner.

Section 107 of the legislation provides an additional period of availability of one year for the fiscal year 1985 Interstate construction funds and the fiscal year 1984 Interstate substitute funds. Because there has been a delay in approving the 1983 ICE and ISCE and these funds have not yet been released, it will be difficult for the States to obligate these funds before they are scheduled to lapse. The Committee believes it would be unfair to penalize the States because these cost estimates were not approved in a timely manner.

ADMINISTRATIVE RELEASE OF INTERSTATE AND INTERSTATE SUBSTITUTE FUNDS

The Committee recognizes the effectiveness of the longstanding Federal-State partnership in implementing the Federal-aid highway program and is concerned that that relationship and the health of the overall program not be jeopardized. It is important that Interstate construction, Interstate substitute, and also the 85 percent minimum allocation funds be made available to the States on schedule at the beginning of each fiscal year. Delays and uncertainty should be avoided if transportation project planning is to be done properly and cost effectively. The Committee has therefore approved an administrative release to operate annually for these funds.

The current procedure would continue. The States are required to submit an updated ICE and ISCE every two years. The Department of Transportation would continue to review the States' submissions to make certain that only eligible items are included. The Secretary is required to submit the ICE and ISCE to Congress in January every two years. Congress would have from January to October to review the cost estimates and make any changes it desired. If Congress has not acted by October 1, the legislation directs the Secretary of Transportation to make the necessary adjustments to the ICE and ISCE and then administratively proceed to apportion the funds each October 1. This would not preclude Congress from making changes to the cost estimates whenever it so desired. It would, however, provide assurances that the States would not be penalized and that the program would not suffer while Congress made its decision.

OBLIGATION LIMITATION

Outlay reduction

Most Federal programs are subject to an annual review by the appropriations process. Highway projects have a multi-year planning, design and construction horizon which makes an annual appropriation impractical. Therefore, unlike other Federal programs, highway programs are approved and funds are made available for a two year or longer period of time. In order to make the highway program responsive to fluctuating fiscal situations and prevailing economic policy, an obligation limitation is imposed that prescribes the amount of funds that can be obligated each fiscal year. The

limitation does not reduce the total authorization of funds nor specify which projects receive funds. The limitation has the effect of controlling the outlays in a specific year and, therefore, controlling the cash outflow from the Highway Trust Fund.

The Surface Transportation Assistance Act of 1982 (STAA of 1982) established an obligation limitation of $14.45 billion for fiscal year 1986. In preparing the Interstate Highway Funding Act of 1985, the Committee recognized the fact that there is a strong need to address the Federal deficit. In order to reduce deficits, the focus must be on outlays because outlays represent actual spending. The Committee believes it is important to take swift action and show a serious commitment to reducing deficits, even though highway money is provided by a user generated trust fund and does not come from general appropriations. Because the Federal government operates under a unified budget, the outlays from all sources including the Highway Trust Fund, are compared to income from all sources to determine the government's fiscal balance. Therefore, a change in spending from the Trust Fund, even though modest in scale, changes the size of the deficit. In addition, the Committee believes every program where Federal funds are spent must be reviewed and must bear its share in bringing Federal deficits under control.

The Committee established a level of $12.75 billion for fiscal year 1986 which is a $1.7 billion reduction in the obligation limitation put in place by the STAA of 1982. It is $500 million below the obligation limitation in place for fiscal year 1985. The cut is expected to produce the following reduction in outlays: fiscal year 1986—$285 million; fiscal year 1987—$891 million; fiscal year 1988—$258 million, for a total reduction in outlays of $1.4 billion over a three year period.

The Byrd amendment

Early in the history of the Highway Trust Fund, growing concern about maintaining a positive balance in the fund resulted in passage of the Byrd amendment. The amendment provides that if at the end of any fiscal year the level of authorized but unobligated funds exceeds projected fund revenues for the next two years, the Secretary of Transportation shall reduce the subsequent distribution of apportioned funds on a proportionate basis.

According to the Congressional Budget Office (CBO), using the fiscal year 1986 $14.45 billion obligation limitation established in the STAA of 1982 and projecting future years by adjusting that figure for inflation and projecting trust fund income based on Department of Treasury forecasts of receipts and CBO interest rate assumptions, the Byrd amendment will be triggered at the end of fiscal year 1987. Therefore, apportionment distributions would be reduced in 1988. Because these rates can fluctuate, assuming the possibility of significant error in inflation rates, income forecasts or interest rate assumptions, it is possible for the Byrd amendment to be triggered as early as fiscal year 1986. The obligation limitation reduction made by the Committee minimizes that possibility and further ensures that the Highway Trust Fund will remain solvent. The Federal-aid highway program must be reauthorized in 1986

and both the Highway Trust Fund and the level of Federal-aid highway spending will be reviewed at that time.

SECTION-BY-SECTION ANALYSIS

SECTION 101. INTERSTATE COST ESTIMATE APPROVAL

This section approves the Interstate Cost Estimate in order to apportion the Interstate construction funds for the remainder of fiscal year 1985 and for fiscal year 1986. The apportionment made on March 9, 1984, would be adjusted to reflect the Interstate Cost Estimate.

SECTION 102. INTERSTATE SUBSTITUTE COST ESTIMATE APPROVAL

This section approves the Interstate Substitute Cost Estimate in order to apportion the Interstate Substitute funds for the remainder of fiscal year 1984 and for fiscal years 1985 and 1986.

SECTION 103. 85 PERCENT MINIMUM ALLOCATION

This section directs that when the remainder of the 85 percent minimum funds are allocated, the entire allocation for fiscal year 1984 shall be computed using the apportionment of Interstate construction funds based on the approved 1983 Interstate Cost Estimate.

SECTION 104. 1985 INTERSTATE COST ESTIMATE APPROVAL

This section the 1985 Interest Cost Estimate in order to apportion the Interstate construction funds for fiscal years 1987 and 1988.

SECTION 105. RELEASE OF INTERSTATE CONSTRUCTION FUNDS

This section requires the Secretary to apportion Interstate construction funds after adjusting the apportionment factors to reflect apportionments of Interstate construction funds, lapses of such funds, withdrawals of Interstate segments, allocations of Interstate discretionary funds, and Interstate transfers of funds on October 1 of the year of adjustment, if Congress has not approved an Interstate Cost Estimate.

SECTION 106. RELEASE OF INTERSTATE SUBSTITUTE FUNDS

This section requires the Secretary to apportion Interstate substitute highway and transit funds after adjusting the Interstate Substitute Cost Estimate to reflect changes in the amounts available to the Secretary, changes in States' estimates of the division of funds between substitute highway and transit projects, and the allocation and apportionment of substitute highway and transit funds in prior fiscal years on October 1 of the year of adjustment if Congress has not approved an Interstate Substitute Cost Estimate.

SECTION 107. PERIOD OF AVAILABILITY EXTENSION

This section provides that sums authorized for the Interstate system for fiscal year 1985 shall remain available for expenditure

until September 30, 1986. Interstate substitute funds apportioned for fiscal year 1984 shall remain available for obligation until September 30, 1986, and such sums which are unobligated (except for amounts insufficient to pay the Federal share of a substitute project) by September 30, 1985, shall be apportioned among those States which have obligated all such sums in accord with the latest cost estimate.

SECTION 108. OBLIGATION LIMITATION

This section establishes an obligation limitation of $12.750 billion for fiscal year 1986, excluding emergency relief projects, certain bridge acceleration projects, the rehabilitation of a federally owned bridge, and projects associated with the National Visitor Center. The obligational authority for each year is to be allocated to the States in the same ratio as those sums to be apportioned to the States for Federal-aid highways and highway safety construction are apportioned or allocated.

HEARINGS

Although no hearings were held in the 99th Congress on the bill, extensive hearings had been held during the 98th Congress on substantially the same legislation. In the interest of expediting the approval and release of the backlog of Interstate construction and Interstate substitute funds, no new hearings were scheduled. The primary purpose for legislation remained the same—Congressional approval of the ICE and ISCE.

In 1984, the Transportation Subcommittee of the Committee on Environment and Public Works conducted four days of hearings on the overall subject of implementation of the Surface Transportation Assistance Act of 1982 (STAA of 1982). All the hearings were held in Washington, D.C.

Testimony was received from Rudolph G. Penner, Director of the Congressional Budget Office, on the financial condition of the Highway Trust Fund and its implications for the current Federal highway program. Also testifying were James H. Burnley IV, Deputy Secretary, U.S. Department of Transportation, and Ray A. Barnhart, the Federal Highway Administrator, on the fiscal year 1985 budget and implementation of the STAA of 1982.

The Subcommittee held another day of hearings on provisions in the 1982 Act affecting the trucking industry. Testimony was received from Federal, State, and local transportation officials, industry representatives, consumer groups, and environmentalists.

Two additional days of hearings were held by the Subcommittee. Witnesses addressed specific issues relating to implementation of the STAA of 1982; new and pending legislation; the current and long-term status of the Highway Trust Fund; and the roles of Federal, State, and local governments. Among those testifying were five United States Senators and a Representative, State and local officials, construction and other industry representatives, and public interest groups.

Rollcall Votes During Committee Consideration

During consideration of this bill by the Committee on Environment and Public Works, two rollcall votes were taken. In accordance with Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee on Environment and Public Works, those votes are recorded below.

On January 29, 1985, Senator Lautenberg moved adoption of an amendment to an amendment proposed by Senator Chafee. The motion to freeze fiscal year 1986 highway spending at the fiscal year 1985 level was defeated by a vote of 11 to 3 with Senators Stafford, Abdnor, Bentsen, Chafee, Domenici, Durenberger, Evans, Humphrey, Mitchell, Simpson, and Symms voting in the negative. Senators Burdick, Baucus, and Lautenberg voted in support of the measure.

Committee members then voted on the original Chafee amendment to substitute $12,750,000,000 as the obligation limitation for fiscal year 1986. The motion was adopted by a vote of 15–0 with Senators Stafford, Abdnor, Bentsen, Burdick, Chafee, Domenici, Durenberger, Evans, Hart, Humphrey, Lautenberg, Mitchell, Moynihan, Simpson and Symms voting in the affirmative.

Senator Symms proposed to report the bill, as amended, from Committee. The motion was adopted by a voice vote with no negative vote heard.

Evaluation of Regulatory Impact

Section 11(b) of rule XXVI of the Standing Rules of the Senate requires the committee to evaluate the regulatory impact of the reported bill. It is not anticipated that this bill will impose any significant new regulatory burden.

Cost of Legislation

Section 403 of the Congressional Budget and Impoundment Control Act requires each report to contain a statement of the cost of the reported bill prepared by the Congressional Budget Office. That statement follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, February 5, 1985.

Hon. Robert T. Stafford,
Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S.J. Res. 44, a joint resolution to approve the interstate and interstate substitute cost estimates, to amend title 23 of the United States Code, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Rudolph G. Penner, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S.J. Res. 44.

2. Bill title: A joint resolution to approve the interstate and interstate substitute cost estimates, to amend title 23 of the United States Code, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, January 29, 1985.

4. Bill purpose: The joint resolution directs the Secretary of Transportation to apportion the remaining interstate construction and interstate substitution funds available for obligation in fiscal year 1984, and all of the funds for these programs available for fiscal year 1985. (One-half of the funds for 1984 were released on March 9, 1984 by Public Law 98-229.) It also provides approval in advance for the Secretary to apportion—at the beginning of the respective fiscal years—the interstate construction funds available for fiscal years 1986 and 1987 and the interstate substitution funds available for 1986. In addition, if the Congress has not acted to approve an interstate cost estimate or interstate substitute cost estimate in future years, the Secretary is directed to apportion the funds based on an adjusted version of the previous estimate.

The joint resolution establishes an obligation ceiling of $12.75 billion for the Federal-aid highway and highway safety construction programs, a level $1.7 billion below that authorized for 1986 by the Surface Transportation Assistance Act of 1982, and $500 million below the obligation ceiling for 1985. S.J. Res. 44 also directs the Secretary of Transportation to reallocate the 1984 funds from the minimum allocation program based on the full apportionment of interstate construction and interstate substitution funds.

5. Estimated cost to the Federal Government: This joint resolution permits the obligation of over $7 billion previously provided for interstate highway programs for fiscal years 1984 and 1985. The budget impact of this spending has been attributed to previous highway legislation, and is not reflected in this estimate. Other provisions of S.J. Res. 44 would result in reductions in spending, as shown in the following table.

[By fiscal years, in millions of dollars]

	1985	1986	1987	1988	1989	1990
Direct spending—from the Highway Trust Fund:						
Estimated budget authority	−27					
Estimated outlays	−5	−301	−885	−263	−81	−52

The budget impact of S.J. Res. 44 falls within function 400.

Basis of Estimate: Budget authority for the minimum allocation program is estimated to decrease by approximately $27 million in 1985 as a result of the provision in S.J. Res. 44 that directs the Secretary to adjust and reallocate the funds allocated for the program in March 1985 to reflect the full apportionment of interstate and interstate substitution funds for 1984. The joint resolution also reduces the obligation ceiling for fiscal year 1986 by $1.7 billion from current law, resulting in total outlay savings of $1.56 billion over

the 1986–1990 period. This provision does not affect budget authority.

6. Estimated cost to State and local governments: Federal funding for highways is provided to states in the form of grants, with a required state match for most programs ranging from 10 percent to 25 percent of the total cost of the project. S.J. Res. 44 decreases the funds going to the states, by the same amount of outlay savings to the federal government. As a result, states will not be required to provide matching funds for those grants, but will not have as much federal money available to fund their projects.

7. Estimate comparison: None.

8. Previous CBO estimate: On February 5, 1985, the Congressional Budget Office prepared a cost estimate for S. 178, as ordered reported by the Senate Committee on Environment and Public Works, January 29, 1985. That bill also directed the Secretary to apportion interstate construction and interstate substitution funds, and to reallocate the 1984 funds for the minimum allocation program. It also established an obligation limitation of $12.75 billion for the federal-aid highway program. However, it changed the formula on which the minimum allocation program is based, and included funding for some other projects. The estimated costs reflect these differences.

On September 28, 1984, CBO prepared a cost estimate for S. 3024, as ordered reported by the Senate Committee on Environment and Public Works, September 26, 1984. That bill included funding for 15 demonstration projects thoughout the country, and did not reduce the obligation limitation for the Federal-aid highway program in 1986. the estimated costs reflect these differences.

9. Estimate prepared by Kathleen Kelly.

10. Estimate approved by C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

Changes in Existing Law

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follow: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman:

TITLE 23—UNITED STATES CODE

HIGHWAYS

CHAPTER 1—FEDERAL-AID HIGHWAYS

Sec.

* * * * * * *

127. Vehicle weight [and width] limitations—Interstate System.
146. [Repealed] Carpool and vanpool projects.

* * * * * * *

TITLE 23—UNITED STATES CODE

HIGHWAYS

CHAPTER 1—FEDERAL-AID HIGHWAYS

* * * * * * *

§ 103. Federal-aid systems

* * * * * * *

(e) * * *

(4) Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw his approval of any route or portion thereof of the Interstate System which was selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, or up to an including the 1983 interstate cost estimate, whichever is earlier, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of approval of each substitute project under this paragraph, or the date of approval of the 1983 interstate cost estimate, whichever is earlier; shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or projects authorized under any highway assistance program under section 103 of this title; or both, which will serve the area or areas from which are selected by the reponsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or the States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located. Substitute projects under this paragraph may not be approved by the Secretary under this paragraph after September 30, 1983, and the Secretary shall not approve any withdrawal of a route under this paragraph after such date, except that this sentence shall not apply to any route which on the date of enactment of the Federal-Aid Highway Act of 1978 is under judicial injunction prohibiting its construction, and except that with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction the Secretary may approve substitute projects and withdrawals on such route until September 30, 1985. Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of each

substitute project shall not exceed 85 per centum of the cost thereof. The sums apportioned under this paragraph for public mass transit projects shall remain available for the fiscal year for which apportioned and for the succeeding fiscal year. The sums available for obligation under this paragraph for projects under any highway assistance program shall remain available for the fiscal year for which apportioned and for the succeeding fiscal year. Any sums which are apportioned to a State for a fiscal year and ar unobligated (other than an amount which, by itself is insufficient to pay the Federal share of the cost of a substitute project which has been been submitted by the State of the Secretary for approval) at the end of such fiscal year shall be apportioned among those States which have obligated all sums (other than such an amount) apportioned to them for such *fiscal year,* in accordance with the latest **[**approved**]** estimate of the cost of completing the appropriate substitute projects in such States. The sums obligated for mass transit projects shall become part of, and be administered through, the Urban Mass Transportation Fund. For the fiscal year ending September 30, 1983, $257,000,000 shall be available out of the Highway Trust Fund for expenditure at the discretion of the Secretary for projects under highway assistance programs. For the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, sums obligated for projects under highway assistance programs shall be paid out of the Highway Trust Fund, and $700,000,000 shall be available for expenditure during each of the fiscal years ending September 30, 1984, September 30, 1985, and $725,000,000 shall be available for expenditure during the fiscal year ending September 30, 1986. Twenty-five per centum of the funds available from the Highway Trust Fund for each of the fiscal years ending September 30, 1984, September 30, 1985, and September 30, 1986, for substitute highway projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 75 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share or such approved estimate in making apportionments for substitute highway projects for the *fiscal year* ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same of the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approval estimate in making apportionments for substitute highway projects for the fiscal year ending September 30, 1985, and September 30, 1986. *In September of each year, the Secretary shall adjust the last cost estimate submitted to reflect (1) changes in the amounts available to the Secretary under this paragraph, (2) changes in State estimates of the division of funds between substitute highway and transit projects, and (3) the allocation and apportionment of substitute highway funds in prior fiscal years. The Secretary shall use the*

Federal share of such adjusted estimate in making apportionments for substitute highway projects on October 1 of the year of adjustment if the Congress has not approved an Interstate Substitute Cost Estimate to make such apportionment. There are authorized to be appropriated for liquidation of obligations incurred under this paragraph the sums provided in section 4(g) of the Urban Mass Transportation Act of 1964. Fifty per centum of the funds appropriated for each fiscal year beginning after September 30, 1983, for carrying out substitute transit projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 50 per centum of such funds shall be apportioned in accordance with cost estimates approved by Congress. The Secretary shall make an estimate of the cost of completing substitute transit projects under this paragraph and transmit the same of the Senate and the House of Representatives as soon as practicable after the date of enactment of this sentence. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal *year* ending September 30, 1984. The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same of the Senate and the House of Representatives within ten days subsequent to January 2, 1984 and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal years ending September 30, 1985, and September 30, 1986. *In September of each year, the Secretary shall adjust the last cost estimate submitted to reflect (1) changes in the amounts available to the Secretary under this paragraph, (2) changes in State estimates of the division of funds between substitute highway and transit projects, and (3) the allocation and apportionment of substitute transit funds in prior fiscal years. The Secretary shall use the Federal share of such adjusted estimate in making apportionments for substitute transit projects on October 1 of the year of adjustment if the Congress has not approved an Interstate Substitute Cost Estimate to make such apportionment.* Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all Interstate routes in that State as reflected in the latest cost estimate approved by the Congress. In any State where the withdrawal of an Interstate route or portion thereof has been approved under section 103(e)(4) of this title prior to the date of enactment of the Federal-Aid Highway Act of 1976, the unobligated apportionments for the Interstate System in that State on the date of enactment of the Federal-Aid Highway Act of 1976 shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all Interstate routes in that State, as shown on such cost estimate, except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attrib-

utable to the Federal share of any substitute project approved under this paragraph prior to enactment of such Federal-Aid Highway Act. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. The provisions of this paragraph as amended by the Federal Aid Highway Act of 1976, shall be effective as of August 13, 1973. The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph. After the date of enactment of this sentence, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provision of law. The preceding sentence shall not apply to a designation made under section 139 of this title. After September 30, 1979, the Secretary shall not withdraw his approval under this paragraph of any route or portion thereof on the Interstate System open to traffic before the date of the proposed withdrawal. Any withdrawal of approval of any such route or portion thereof before September 30, 1979, in hereby determined to be authorized by this paragraph. Any route or segment thereof which was statutorily designated after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection.

* * * * * * *

§ 104 Apportionment

(b)(5)(A) Except as provided in subparagraph (B)—For the Interstate System for the fiscal years 1960 through 1990:

For the fiscal years 1960 through 1966, in the ratio which the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of completing the Interstate System in all of the States. For the fiscal years 1967 through 1990 in the ratio which the Federal share of the estimated cost of completing the Interstate System in such State, as determined and approved in the manner provided in this paragraph, bears to the sum of the estimated cost of the Federal share of completing the Interstate System in all of the States. Each apportionment herein authorized for the fiscal years 1960 through 1990, inclusive, shall be made on October 1 of the year preceding the fiscal year for which authorized. As soon as the standards provided for in subsection (b) of section 109 of this title have been adopted, the Secretary, in cooperation with the State highway departments, shall make a detailed estimate of the cost of completing the Interstate System as then designated, after taking into account all previous apportionments made under this section, based upon such standards and in accordance with rules and regulations adopted by him and applied uniformly to all of the States. The Secretary shall transmit such estimates to the Senate and the House of Representatives within ten days subsequent to January 2, 1958. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approved estimate in making apportionments for the fiscal years ending June 30, 1960, June 30, 1961, and

June 30, 1962. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1961. Upon approval of such estimate by the Congress by concurrent resolution, the Secretary shall use such approval estimate in making apportionments for the fiscal years ending June 30, 1963, June 30, 1964, June 30, 1965, and June 30, 1966. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System, after taking into account all previous apportionments made under the section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1965. Upon the approval of such estimate by the Congress, the Secretary shall use of the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1967; June 30, 1968; and June 30, 1969. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1968. Upon the approval of the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1970, and June 30, 1971. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives on April 20, 1970. Upon the approval by the Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30, 1972, and June 30, 1973. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section, in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1975. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for the fiscal years ending June 30 1974, June 30, 1975, and June 30, 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1975. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimate in making the apportionment for the fiscal year ending September 30, 1977. The Secretary shall make the apportionment for the fiscal year ending September 30, 1978, in accordance with section 103 of the Federal-Aid Highway Act of 1976. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System

after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1977. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1979, and September 30, 1980. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1979. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1981, and September 30, 1982. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionment made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1981. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1983, and September 30, 1984. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1983. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1985, and September 30, 1986. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1985. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1987, and September 30, 1988. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1987. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years ending September 30, 1989, and September 30, 1990. *In September of each year, the Secretary shall adjust the last estimate submitted to reflect (1) all previous credits, apportionments and lapses of previous apportionments, (2) previous withdrawals of Interstate segments under Section 103(e)(4) of this title, (3) previous allocations of Interstate discretionary funds under section 118(b)(2) of this title, and (4) Interstate transfer of funds under section 119(d) of*

this title. The Secretary shall use the Federal share of such adjusted estimate in making apportionments on October 1 of the year of adjustment if the Congress has not approved an Interstate Cost Estimate to make such apportionment. Whenever the Secretary, pursuant to this subsection, requests and receives estimates of cost from the State highway departments, he shall furnish copies of such estimates at the same time to the Senate and the House of Representatives. The Secretary shall not include in any estimate submitted under this provision after December 31, 1978, any cost of a project to expand or clear zones immediately adjacent to the paved roadway or routes designed prior to February 1967. Notwithstanding any other provisions of this subparagraph, the Secretary in making the revised estimate of the cost of completing the then designated Interstate System for the purpose of transmitting it to the Senate and House of Representatives within ten days subsequent to January 2, 1983, or thereafter, shall include only those costs eligible for funds authorize by subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, including the amendments made by section 4 of the Federal-Aid Highway Act of 1981.

* * * * * * *

○